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1/13/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No: 038602/0391

In re patent application of
Gregory PLOWMAN *et al.*

Serial No.: 09/069,228

Group Art Unit: 1642

Filed: April 27, 1998

Examiner: K. CANELLA

For: DIAGNOSIS AND TREATMENT OF ALK-7 RELATED DISORDERS

PRELIMINARY AMENDMENT

Commissioner for Patents
Washington, D.C. 20231

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1-13-03

Sir:

Prior to examination of the present Continuing Prosecution Application (CPA), Applicants respectfully request that the following arguments and a declaration from one of the inventors, Dr. Douglas Clary, with supporting scientific publications, be considered. Dr. Clary's declaration will be hand-carried to the Examiner with the supporting publications. Applicants thank the Examiner and her SPE Tony Caputa for the interview on October 24, 2002. The following arguments address the rejections maintained in the Advisory Action dated July 23, 2002.

Claims 2-5, 9 and 23-37 are presently pending in this application.

Rejections under 35 U.S.C. 101 and 35 U.S.C. 112, first paragraph

Claims 2-5, 9 and 23-37 are rejected because the Examiner maintains that the claimed invention is not supported by either a credible, substantial and specific asserted utility or a well established utility. The Examiner states that she has considered Jornvall and Sebolt-Leopold but considers their disclosures to be “[d]iscoveries of utility occurring after the filing date, i.e., identification ALK-7 as signaling cell cycle arrest and differentiation in neuronal cells...”

Applicants respectfully traverse this rejection. Applicants submit that the instant specification provides information that ties the presence of the ALK-7 gene to cancer and its related processes, i.e., metastasis. For example, the paragraph